

part, as a result of a disaster or related condition. Producers may not receive benefits with respect to volunteer stands of crops.

(b) Payments may be made for losses suffered by an eligible producer who is now deceased or is a dissolved entity if a representative who currently has authority to enter into a contract for the producer signs the application for payment. Proof of authority to sign for the deceased producer or dissolved entity must be provided. If a producer is now a dissolved general partnership or joint venture, all members of the general partnership or joint venture at the time of dissolution or their duly authorized representatives must sign the application for payment.

(c) As a condition to receive benefits under this part, a producer must have been in compliance with the Highly Erodible Land Conservation and Wetland Conservation provisions of 7 CFR part 12 for the 2003, 2004, or 2005 crop year, as applicable, and must not otherwise be barred from receiving benefits under 7 CFR part 12 or any other law.

§ 1479.104 Time for filing application.

Applications for benefits under the 2003, 2004, or 2005 Crop Disaster Program must be filed in the FSA county office in the producer's control county before the close of business on August 1, 2005, or such other date that may be announced by the Deputy Administrator.

§ 1479.105 Limitations on payments and other benefits.

(a) Except with respect to certain claims in Virginia and North Carolina, as specified in §§ 1479.121 and 1479.122, a producer may receive disaster benefits for crop losses for only one of the 2003, 2004, or 2005 crop years as specified under this part.

(b) Payments will not be made under this part for grazing losses.

(c) CCC may divide and classify crops based on loss susceptibility, yield, and other factors.

(d) No person, as defined by part 1400 subpart B of this chapter, shall receive more than a total of \$80,000 in disaster benefits under this part, unless otherwise specified.

(e) No producer shall receive disaster benefits under this part in an amount that exceeds 95 percent of the value of the expected production for the relevant period as determined by CCC. The sum of the value of the crop not lost, if any; the disaster payment received under this part; and any crop insurance payment or payments received under the NAP for losses to the same crop, cannot exceed 95 percent of what the crop's value would have been if there had been no loss.

(f) An individual or entity whose adjusted gross income is in excess of \$2.5 million, as defined by and determined under part 1400 subpart G of this chapter, shall not be eligible to receive disaster benefits under this part.

(g) Any person who received any payments from Section 32 of the Act of August 25, 1935, with respect to any 2004 hurricane losses, is not eligible for any payments under this part.

§ 1479.106 Requirement to purchase crop insurance and non-insurable coverage.

(a) Except as provided further in this section, any producer who elected not to purchase crop insurance on an insurable 2003, 2004, or 2005 crop for which the producer receives crop loss assistance or, for non-insurable crops, elected not to participate in NAP for the year for which benefits are received must purchase:

(1) Crop insurance with additional coverage on that crop for each of the next 2 crop years, as applicable, for the insurable crops.

(2) NAP coverage by paying the administrative fee by the applicable State filing deadline and complete all required program requirements, including yearly acreage reports, for the non-insurable crop for each of the next 2 crop years, as applicable, for the non-insurable crops.

(b) If, at the time the producer applies for the CDP and benefits under §§ 1479.121 or 1479.122, the sales closing date for next year's insurable crops, or for the next year's non-insurable crops for which the producer sought benefits under this part has passed, the producer must purchase a crop insurance

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policy or obtain NAP coverage, as applicable, for the next available 2 crop years.

(c) If any producer fails to purchase crop insurance or NAP, as required in paragraph (a) or (b) of this section, the producer shall reimburse CCC for the full amount of the assistance, plus interest, provided to the producer under this part.

§ 1479.107 Miscellaneous provisions.

(a) A person shall be ineligible to receive disaster assistance under this part if it is determined by the State or county committee or an official of FSA that such person has:

(1) Adopted any scheme or other device that tends to defeat the purpose of a program operated under this part;

(2) Made any fraudulent representation with respect to such program; or

(3) Misrepresented any fact affecting a program determination.

(b) All persons with a financial interest in the operation receiving benefits under this part shall be jointly and severally liable for any refund, including related charges, which is determined to be due CCC for any reason under this part.

(c) In the event that any request for assistance or payment under this part was established as a result of erroneous information or a miscalculation, the assistance or payment shall be recalculated and any excess refunded to CCC with applicable interest.

(d) The liability of any person for any penalty or sanction under or in connection with this part, or for any refund to CCC or related charge arising in connection therewith, shall be in addition to any other liability of such person under any civil or criminal fraud statute or any other provision of law including, but not limited to: 18 U.S.C. 286, 287, 371, 641, 651, 1001 and 1014; 15 U.S.C. 714m; and 31 U.S.C. 3729.

(e) Any person who is dissatisfied with a determination made with respect to this part may make a request for reconsideration or appeal of such determination in accordance with the regulations set forth in parts 11 and 780 of this title.

(f) Any payment or portion thereof to any person shall be made without regard to questions of title under State

law and without regard to any claim or lien against the crop, or proceeds thereof.

(g) For the purposes of 28 U.S.C. 3201(e), CCC waives the restriction on receipt of funds or benefits under this program but only as to beneficiaries who as a condition of such waiver agree to apply the benefits received under this part to reduce the amount of the judgment lien.

§ 1479.108 Additional general provisions.

(a) For calculations of loss made with respect to insured crops, the producer's existing unit structure will be used as the basis for the calculation and may include optional units established in accordance with part 457 of this title. Insured crops may have basic units established if the existing unit structure is based on enterprise units or whole county units or written agreements. For uninsured and non-insurable crops, basic units will be established for these purposes.

(b) County average yield for loss calculations will be the average of the 1998 through 2002 official county yields established by CCC, excluding the years with the highest and lowest yields, respectively.

(c) County committees will assign production or reduce the historic yield when the county committee determines:

(1) An acceptable appraisal or record of harvested production does not exist;

(2) The loss is due to an ineligible cause of loss or practices, soil type, climate, or other environmental factors, that cause lower yields than those upon which the historic yield is based;

(3) The producer has a contract providing a guaranteed payment for all or a portion of the crop; or

(4) The crop is planted beyond the normal planting period for the crop.

(d) The county committee shall establish a maximum loss level that should reflect the amount of production producers should have produced considering the eligible disaster conditions in the area or county for the same crop. The maximum loss level for the county shall be expressed as either a percent of loss or yield per acre. The maximum loss level will apply when: